



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title):

WAC 458-16-010 Senior Citizen and Disabled Persons Exemption—Definitions
WAC 458-16-011 Senior Citizen and Disabled persons Exemption—Gross Income
WAC 458-16-012 Senior Citizens and Disabled persons Exemption—Adjusted Gross Income
WAC 458-16-013 Senior Citizens and Disabled persons Exemption—Disposable Income
WAC 458-16-020 Senior Citizens and Disabled Persons Exemption --Qualifications for Exemption.
WAC 458-16-022 Senior Citizens and Disabled Persons Exemption --Qualification for Cooperative Housing
WAC 458-16-030 Senior Citizens and Disabled Persons Exemption --Claims
WAC 458-16-040 Senior Citizens and Disabled Persons Exemption --Denial-Appeal-Penalty-Perjury
WAC 458-16-060 Senior Citizens and Disabled Persons Exemption --Transfer of Exemption
WAC 458-16-070 Senior Citizens and Disabled Persons Exemption --Cancellation
WAC 458-16-079 Senior Citizens and Disabled Persons Exemption --Refunds-Late Filings

Date last reviewed: **All reviews of these rules were completed September 30, 1998, except for WAC 458-16-020. The review of WAC 458-16-020 was completed on June 14, 1997.**

Current Reviewer: **Ed Ratcliffe**

Date current review completed: **October 29, 2001**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s): The rules inform taxpayers, county assessors, and county treasurers about the property tax exemption granted by RCW



84.36.381 to senior citizens and disabled persons. These rules provide definitions, qualifications, and procedures for the exemption.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
X		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

The following legislation should be incorporated as needed into these rules:

- **Laws of 1998, ch. 333, sec. 1, raised the income level provided in RCW 84.36.381(5) from \$28,000 to \$30,000.**
- **Laws of 1999, Ch. 358, sec. 18, deleted the exception to inclusion of capital gains from the sale of a principal residence under IRC section 1034 (rollover of gain on sale of principal residence) in RCW 84.36.383. This federal statute had been replaced and repealed by changes made to IRC sec. 121.**

Information or issues addressed in the following should be incorporated when these rules are next revised:



- BTA 53319-27, *Porter v. Stevens County* (1998) Transfer to Church of Christ Sanctuary Foundation did not cause loss of senior exemption because no corporate entity existed for tax purposes.
- BTA 50969-25, *Stewart v. Whatcom County* (1998), Couple's disposable income was too high to claim exemption – couple argued that not allowing the depreciation deduction for rental properties was unfair.
- BTA 98-39 to 98-41, *Bankston v. Pierce County* (1999), Sleeping in motor home on property connected by electrical cords to house did not alter principal residence. Leasing apartment near house did change status of principal residence to apartment.
- BTA 98-38, *Scheidler v. Kitsap County* (1999), Disabled person must establish proof of income for exemption. Request by Assessor for Schedule D (capital gains and losses) from tax return was valid. Taxpayer failed to establish income when he refused to provide this documentation.
- BTA 52012-27, *Hedger v. Clallam County* (1999), Disposable income was too high regardless of whether IRA was pension to be included. Taxpayer had miscalculated basis of IRA on return so that it was too high. The use of the correct basis pushed the taxpayer over the income amount regardless of IRA's status.
- BTA 53478-55, *King County v. McDonald* (1999), affirming, BTA 98-38, *Scheidler v. Kitsap County* (1999) and BTA 46284, *Dragoy v. King County* (1995), In determining disposable income for the senior exemption, capital gains cannot be offset by losses.
- BTA 54854, *Stevens County v. Kory* (1999), Failure to file requested income documentation is valid reason to deny exemption, but cannot be used to retroactively deny prior years of exemption without proof of fraud or collusion by the taxpayer.
- BTA 54826, *Fuqua v. Kittitas County* (2000), Taxpayer reported IRA withdrawal under pension line of federal tax return. Pension income is included in disposable income and will be included regardless of taxpayer's mistake or that the amount may include after tax dollars.
- BTA 55067, *Pelham v. King County* (2000), Losses cannot be used to reduce income. Taxpayer failed to meet income limitations of program because losses placed her over the \$30,000 income amount.

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

Consider putting income information contained in WAC 458-16-050 (amount of the exemption) repealed in 1998 because of concerns about keeping the rule updated – back into the revised rules or develop a better means for referring taxpayers to this information.

The documentation requirements for the program need to be addressed as shown by the number of recent BTA decisions concerning income and how it is calculated.

The definition of retirement status for disabled persons has become an issue since the last review.

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists,



and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

- **RCW 84.36.381 Residences – Property tax exemptions –Qualifications.**
- **RCW 84.36.383 Residences – Definitions.**
- **RCW 84.36.385 Residences – claim for exemption – Forms – Change of status – Publication and notice of qualifications and manner of making claims.**
- **RCW 84.36.387 Residences – Claimants – Penalty for falsification – Reduction by remainderman.**
- **RCW 84.36.389 Residences – Rules and regulations – audits – Confidentiality – Criminal penalty.**

Interpretive statements (e.g., ETAs and PTAs):

- **None since last review.**

Court Decisions:

- **In re Samaniego, 224 B.R. 154 (E.D. Wash., 1998) Exemption did not preclude sale of property for past due taxes, where debtors failed to claim exemption before tax sale was conducted.**

Board of Tax Appeals Decisions (BTAs):

- **BTA 38840-20, McDonald v. Benton County (1991), In determining disposable income, Board allowed losses from investment properties as an offset expense against income earned from a storage warehouse and installment sale of property.**
- **BTA 40932-24, Valentine v. Okanogan County (1992), Taxpayer appealed assessors determination of disposable income.**
- **BTA 42697, Rockwood Retirement Community v. DOR (1993), Senior exemption cannot be transferred to unit of Home for the Aging to give home exemption on previously unoccupied unit.**
- **BTA 44137-25, Griswold v. Clallam County (1994), Leaseback of life estate in 1993 to previous owner was not retroactive to allow the exemption for 1992.**
- **BTA 44279, Carter v. Island County (1994), Disposable income included IRA amount withdrawn to pay medical bills of spouse – above income threshold for exemption.**
- **BTA 49742, Lamberto v. Mason County (1996), 1995 valuation for frozen value of residence in county with cyclical revaluation using comparable sales from 1993 and 1994 was permitted.**
- **BTA 48685, Smith v. King County (1997) Statement that senior was at house every day, but did not sleep there failed to establish house as principal residence.**
- **BTA 49578-79, Zanderson v. Mason County (1997) Split of exemption based upon equal amounts of joint ownership between senior and two children was approved (despite seniors claim that children had not contributed to purchase and had no real**



interest in property). Approved upon reconsideration by entire board, BTA 54894-54895 (2001).

- BTA 50246, Chase v. King County (1997), Unsworn document about income was insufficient to establish eligibility for senior/disabled person exemption.
- BTA 53319-27, Porter v. Stevens County (1998) Transfer to Church of Christ Sanctuary Foundation did no cause loss of senior exemption because no corporate entity existed for tax purposes.
- BTA 50969-25, Stewart v. Whatcom County (1998), Couple's disposable income was too high to claim exemption – couple argued that not allowing the depreciation deduction for rental properties was unfair.
- BTA 98-39 to 98-41, Bankston v. Pierce County (1999), Sleeping in motor home on property connected by electrical cords to house did not alter principal residence. Leasing apartment near house did change status of principal residence to apartment.
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Administrative Decisions (e.g., WTDs):

- PTB 76-3, Income Requirements of the Senior Citizen and Disabled Persons Exemption
- PTB 80-2, Senior Citizens and Disabled Persons Exemption, Absent Spouse
- PTB 91-5, Taxation of Real Property Exempt to Taxable and Property Taxable to Exempt

Attorney General's Opinions (AGOs): None since previous review.



Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **PTB 91-11, Administrative Refunds (supplement to PTB 91-10, rescinded by PTB 92-2)**
- **PTB 92-2, County Tax Refund Fund Levy**

4. Review Recommendation:

<u> X </u>	Amend
_____	Repeal (Appropriate when repeal is not conditioned upon another rule-making action.)
_____	Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.)
_____	Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)



Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
 - Incorporate legislation;
 - Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
 - Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).
-
- **Prior recommendation was to amend rules. The same reasons remain valid for amending the rules. The primary reason is to incorporate the legislative changes that have occurred since the rules were last amended.**
 - **The BTA decisions and legislative requests about this program since the last review have clarified the need for documentation requirements to be set-out by rule.**
 - **An unpublished Superior Court Decision in King County (that allowed a disabled child supported by a trust with her principal residence held by the trust to claim the exemption) has made it important to address when a disabled person may claim the exemption.**

5. **Manager action:** Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

_____ 1
_____ 2
_____ 3
_____ 4